IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 7852/2002

STATE OF RAJASTHAN Vs. M/s VISHNU APARTMENTS & ANR.

DATE: 01.11.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. B.S. Chhaba, Dy. GA for the State.
Mr. A. Kasliwal for the respondents.

****

The petitioner State of Rajasthan through its Assistant Director, Civil Lines Zone, Land & Building Tax Department, Jaipur has preferred this writ petition against the order dated 28.02.98 passed by the Additional Divisional Commissioner, Jaipur.

The Additional Divisional Commissioner having heard the revision petition filed by the respondent M/s Vishnu Apartments, quashed and set-aside the order dated 28.01.95 passed by the Assistant Director (Civil Lines Zone), Land and Building Tax Department, Jaipur and remand the matter back for fresh enquiry and order.

Learned counsel appearing for the respondents submits that the controversy involved in this writ petition is squarely covered by the judgment rendered by the Division Bench of this Court in **D.B. Civil Writ**

Petition No. 3810/2002- Assistant Director, Chandpole Zone, Land and Building Tax Department, Jaipur & Ors. Vs. M/s Bharat Petroleum Corporation Limited & Anr. Dated July 12th & 16th, 2007, wherein the Assistant Director, Land and Building Tax Department has not properly appreciated the provisions of Section 2(3) of the LBT Act and considered 64 flats as one unit, whereas the Division Bench of this Court has held that it is difficult to uphold the contention of the State that group of flats in a multi-storied building owned by one person constitute one 'building' within the meaning of Section 2(3). For all legal and ordinary purposes, each separate flat in a multi-storied building would constitute a separate house or for that matter a separate building under Section 2(3) since each of such flat is separate and there is no nexus with the flat above or below or side by side. There is no common functionality as such. The pre-requisite of the tax under Entry 49 List-II of Seventh Schedule, inter-alia, is that it must be a tax on unit. The tax cannot be taxed on totality i.e. it is not a composite tax and value of all lands and buildings. It is for this reason as well that each flat in a multi-storied building being a house by itself has to be treated as a separate unit and in that sense a separate 'building'

under Section 2(3) of the LBT Act and has to be taxed as such.

In view of the ratio decided by the Division Bench of this Court in the aforementioned case, I find no illegality in the impugned judgment dated 28.02.98 passed by the Additional Divisional Commissioner, Jaipur.

The writ petition, accordingly, has no merit and the same is hereby dismissed with no order as to costs.

The judgment dated July 12th & 16th, 2007 rendered by the Division Bench be treated as a part of this order.

(K.S. RATHORE),J.

/KKC/